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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,260	12/31/2003	Dilip Madhusudan Ranade	5760-18700	8564
35690 7590 04/04/2007 MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C. 700 LAVACA, SUITE 800 AUSTIN, TX 78701			EXAMINER AHN, SANGWOO	
			ART UNIT 2166	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/749,260	Applicant(s) RANADE, DILIP MADHUSUDAN	
	Examiner Sangwoo Ahn	Art Unit 2166	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 30-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Claims 30 – 51 are pending in this Office Action.

Claims 1 – 29 have been canceled.

Claims 30 – 51 have been added.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 30 – 37 and 43 – 47 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Regarding claims 30 – 37, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best, functional descriptive material *per se*.

Regarding claims 43 – 47, the claims fail to place the invention squarely within one statutory class of invention. On page 54 lines 9 – 10 of the instant specification, applicant has provided evidence that applicant intends the "medium" to include signals. As such, the claim is drawn to a form of energy. Energy is not one of the four

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categories of invention and therefore these claims are not statutory. Energy is not a series of steps or acts and thus is not a process. Energy is not a physical article or object and as such is not a machine or manufacture. Energy is not a combination of substances and therefore not a composition of matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 30 – 32, 34 – 40, 42 – 45 and 47 – 50 are rejected under 35

U.S.C. 102(b) as being anticipated by U.S. Patent Number 4,853,843 issued to Denise J. Ecklund (hereinafter "Ecklund").

Regarding claim 1, Ecklund discloses,

A system comprising:

a network (Figures 1 and 2, et seq.); and

a plurality of computing nodes coupled via the network (Figures 1 and 2, et seq.);

wherein the plurality of nodes includes a first node operable to;

create a first file representing a first version of a data object (Figure 12: original common state, column 2 lines 59 – 60, column 8 lines 25 – 26, et seq.);

detect a conflict between a first replica of the first version of the data object and a second replica of the first version of the data object (Figures 6C and 12, column 22 lines 50 – 65, column 43 lines 61 – 65, et seq.);

in response to detecting the conflict:

modifying a tree structure representing the data object to reflect the conflict, wherein modifying the tree structure comprises adding information to the tree structure representing a branching from the first version of the data object to a second version of the data object and a third version of the data object, wherein the first replica of the first version of the data object represents the second version of the data object and the second replica of the first version of the data object represents the third version of the data object (Figures 6C and 12, column 2 line 63 – column 3 line 3, column 3 lines 19 – 22, et seq.);

create a second file representing the second version of the data object (each version is a data object, or “copies” of the original version, which essentially means it could be a file stored in a storage); and

create a third file representing the third version of the data object (each version is a data object, or “copies” of the original version, which essentially means it could be a file stored in a storage).

Regarding claim 31, Ecklund discloses creating the second file and the third file in a common directory (Figure 12 and column 2 lines 63 – 68: Merged Result shows different versions branched off of the original versions, et seq.).

Regarding claim 32, Ecklund discloses creating the second file and the third file in a common directory with the first file (Figure 12 and column 2 lines 63 – 68: Merged Result shows different versions branched off of the original versions, et seq.).

Regarding claim 34, Ecklund discloses the first replica of the first version of the data object is stored on a second node and the second replica of the first version of the data object is stored on a third node (Figure 6C shows that the first replica of 3 (3') is stored at client 1 and the second replica of 3 (3'') is stored at client 2, Figures 12 – 13, et seq.).

Regarding claim 35, Ecklund discloses the conflict between the two replicas is caused by update operations that update the two replicas (Figure 15, column 22 lines 50 – 65, column 43 lines 61 – 65, et seq.).

Regarding claim 36, Ecklund discloses the update operations that update the two replicas comprise concurrent update operations (abstract line 5: independently update, column 3 line 16, et seq.).

Regarding claim 37, Ecklund discloses the conflict between the two replicas is caused by the two replicas being independently updated in different network partitions (abstract line 5: independently update, column 3 line 16, et seq.).

Claims 38 – 40 and 42 are rejected based on the same rationale discussed in claims 30 – 32 and 34 rejections because they are essentially the same except they set forth the limitations as “a method” rather than “a system”.

Claims 43 – 45 and 47 are rejected based on the same rationale discussed in claims 30 – 32 and 34 rejections because they are essentially the same except they set forth the limitations as “a computer-readable medium” rather than “a system”.

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Claims 48 – 50 are rejected based on the same rationale discussed in claims 30 – 32 rejections because they are essentially the same except they set forth the limitations as “a computing node” rather than “a system”.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 33, 41, 46 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ecklund in view of U.S. Patent Number 6,003,034 issued to Raja Singh Tuli (hereinafter “Tuli”).

Regarding claim 33, Ecklund discloses the system of claim 30.

Ecklund does not explicitly disclose creating a name of a file based on the name of another file.

However, Tuli discloses creating a name of a file based on the name of another file in column 12 line 54 – column 13 line 19. At the time of the present invention, it would have been obvious to a person of ordinary skill in the data processing art to combine the two references because the combination would have enabled a simplified method of file management which assigns many related attributes to any file created, resulting in an extremely efficient and resourceful database system with numerous avenues to locate any file.

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Claim 41 is rejected based on the same rationale discussed above since it is essentially the same as claim 33 except it sets forth the limitation as "a method" rather than "a system".

Claim 46 is rejected based on the same rationale discussed above since it is essentially the same as claim 33 except it sets forth the limitation as "a computer-readable medium" rather than "a system".

Claim 51 is rejected based on the same rationale discussed above since it is essentially the same as claim 33 except it sets forth the limitation as "a computing node" rather than "a system".

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sangwoo Ahn whose telephone number is (571) 272-5626. The examiner can normally be reached on M-F 10-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on (571) 272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Patent Examiner Sangwoo Ahn
AU 2166

3/23/2007 SW


MOHAMMAD ALI
PRIMARY EXAMINER